

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL ACTION NO. 3:18-CV-00665-FDW-DCK**

**BARBARA THAXTON AND ANGELA D.  
MAYES, Individually and on behalf of  
themselves and all other similarly situated  
current and former employees,**

**Plaintiffs,**

**v.**

**BOJANGLES' RESTAURANTS, INC., a  
Delaware Corporation, and BOJANGLES',  
INC., a Delaware Corporation,**

**Defendants.**

**BRIEF IN SUPPORT OF DEFENDANTS'  
MOTION FOR ATTORNEYS' FEES  
PURSUANT TO MAY 14, 2019 ORDER  
(Dkt. 164)**

Defendants Bojangles' Restaurants, Inc. and Bojangles' Inc., pursuant to their Motion for Relief from Plaintiffs' Violations of Court-Supervised Notice Provisions and Opt-In Deadline (*Dkt. 147*, the "Motion")) and this Court's Order granting the Motion in part (*Dkt. 164*, the "Order"), move the Court for an award of attorneys' fees as directed in the Order.

On March 6, 2019, Defendants moved for relief for Plaintiffs' unauthorized communications with prospective members of the collective action and for their untimely filing of opt-in notices. (*Dkt. 147*.) In its Order, this Court concluded that Plaintiffs' counsel sent unauthorized notices to potential plaintiffs and granted certain of the relief requested by Defendants. (*Dkt. 164*.) The Court likewise concluded that it is "appropriate to award to Defendants the reasonable costs and fees associated with filing the present motion for relief." (*Dkt. 164* at 6.) The Order directed Defendants to file a motion for attorneys' fees and a detailed accounting of the fees sought within 30 days of the entry of the Order. (*Id.*)

Defendants have now moved the Court to award them the attorney's fees and costs expended in connection with their earlier Motion. Along with the Motion, Defendants have filed the affidavit of Brian L. Church, attorney for Defendants, which includes a detailed accounting of the attorney and paralegal time entries related to Defendants Motion. As shown in the affidavit, the time expended by Defendants' counsel on the Motion is reasonable, and the hourly rates charged by Defendants' attorneys – Mr. Church, Charles E. Johnson, and Gabriel J. Wright – and paralegals – Satyra Riggins and J. Elise Deal – are reasonable and well within rates typically charged by attorneys for federal court class action and wage and hour litigation in the Charlotte area.

To determine the appropriate amount of fees, “the Court turns to [Defendants'] billing records to ‘determine a lodestar figure by multiplying the number of reasonable hours expended times a reasonable rate.’” *Raynor v. G4S Secure Sols. (USA) Inc.*, 327 F. Supp. 3d 925, 948–49 (W.D.N.C. 2018) (quoting *Robinson v. Equifax Info. Servs., LLC*, 560 F.3d 235, 243 (4th Cir. 2009).) In connection with the Motion, Defendants' counsel prepared and submitted twenty pages of legal argument and authority to the Court. They reviewed and responded to twenty-one pages of legal argument and authority filed by Plaintiffs—including Plaintiffs' motion for leave to file a sur-reply brief opposing the Motion. Thirty-one hours of attorney time is a reasonable amount of time to devote to such a contested motion with such extensive briefing. In addition, the average hourly rate for such work, about \$363, is at or below rates prevalent in federal class action and wage and hour litigation in the Charlotte area.

Finally, an award of Defendants' fees in their entirety is reasonable in light of Plaintiffs' refusal to resolve the matter on the same terms on which the Court granted relief. In particular, on January 16, 2019, immediately after finding out about the unauthorized communications,

Defendants' counsel wrote Plaintiffs' counsel and demanded that Plaintiffs identify the individuals who opted into the action following the unauthorized communications and produce communications between their firm and individuals who had not opted into the action at the time of the initial unauthorized communications. (*Dkt.* 148-3 at 2-3.) Plaintiffs refused. (*Dkt.* 148-4 at 3.) This Court ultimately granted almost exactly the same relief that Defendants requested at the outset of this dispute. (*Dkt.* 164 at 3.) Accordingly, Defendants should recover all of the amounts they expended in seeking relief that they previously attempted to obtain by consent.

As detailed in the Affidavit of Mr. Church, Defendants incurred \$11,265 in attorneys' fees in connection with their efforts to research, prepare and file their motion, supporting brief, reply brief, and opposition to Plaintiffs' motion for leave to file a sur-reply. Accordingly, Defendants respectfully request that the Court award them \$11,265 in attorneys' fees, from Plaintiffs or their counsel, in connection with the relief granted by the Court in its May 14, 2019 Order and award Defendants any such other relief the Court deems appropriate.

This 13th day of June, 2019.

/s/ Brian L. Church  
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